

JPA 87-67

ARIZONA DEPARTMENT OF TRANSPORTATION

HIGHWAYS DIVISION

URBAN HIGHWAYS SECTION

STATE - CITY OF PEORIA

STORM DRAINAGE DISPOSAL AGREEMENT

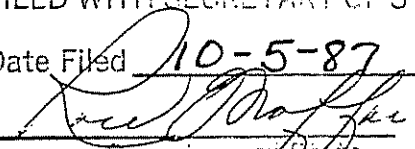
NON FEDERAL AID

ECS FILE: IGA-87-67  
Agreement No. 100-87 RBM  
Project No. RBM-600-0-501  
Northwest Outer Loop Highway  
Northern Avenue - Grand Avenue Section

THIS AGREEMENT, made this 5<sup>th</sup> day of October, 1987, pursuant to Arizona Revised Statutes Section 11-951 through 11-954 between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, first party, herein called "STATE," and the CITY OF PEORIA, acting by and through its Manager, hereinafter called "CITY."

RECITALS:

1. The STATE has awarded a construction contract for construction of a segment of the Outer Loop Highway - Northern Avenue - Grand Avenue. In connection with the construction, the STATE is constructing box culverts at Northern Avenue, Olive Avenue and Peoria Avenue. The CITY wants the STATE, as part of the construction to construct tie-ins to the three box culverts. The tie-ins will allow the City of Peoria to expand its storm water system. The CITY will reimburse the STATE for the Costs of the culvert tie-ins.
2. The STATE is empowered by A.R.S. Section 28-108 to enter into this Agreement.
3. The CITY is empowered by A.R.S. Section 9-67 to enter into this Agreement

NO. <u>12436</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>10-5-87</u>
 Secretary of State

AGREEMENT:

1. The STATE shall have its contractor construct tie-ins to the highway box culverts in accordance with plans and specifications at Northern Avenue, Olive Avenue and Peoria Avenue. The CITY will reimburse the STATE for the cost of the tie-in construction.

2. The estimated cost of the construction is \$71,324.61, which amount shall be paid by the City of Peoria (already on deposit) to the State of Arizona, upon execution of this Agreement. The above amount includes the estimated cost of the construction and a 15% allowance to the State for its engineering and administrative costs. The CITY also agrees to reimburse the STATE for any unanticipated construction costs relating to the tie-ins. The STATE agrees to notify the CITY prior to incurring liability for unanticipated construction costs.

3. The STATE shall, within 45 days after completion of the work called for under this Agreement, submit an itemized invoice covering the final quantities and unit prices of the items used in performance of said work. The invoice shall include the final costs of the items plus an additional 15% the CITY agrees to pay the STATE for engineering and administrative costs.

4. (a) The CITY agrees to process for final payment any additional amount over and above their original escrow check of \$71,439.61 for all billings received from the STATE within 45 days after receipt of an itemized invoice showing the actual final quantities of items installed.

(b) In the event the final quantities of items installed are less than originally estimated, the State agrees to refund to the City monies not expended, including an adjustment of the engineering and administration costs based on the final cost of actual items installed.

This refund will be made within 45 days after the final itemized installed items are reported by the State Project Construction Engineer.

5. In the event it is determined during construction that a change in the Scope of Work is required, the STATE shall request approval from the CITY before proceeding, except in an emergency endangering life or property.

6. The CITY agrees to obtain a permit from the State prior to connecting the storm water collection system to each of the tie-ins as well as securing a permit for any future work on the system within the State Right of Way.

7. Following construction, the CITY agrees at its' own expenses to maintain the storm drain tie-ins: provided, however, the CITY shall have the right to make emergency repairs to their tie-ins without a permit, upon written notice to the STATE explaining the emergency, and at the expense of the CITY.

(a) The CITY agrees that the areas tributary to each connection must not extend beyond the tributary boundaries as identified in the attached Drainage Basin Map marked Attachment "A" from which the channel was designed.

(b) The CITY agrees that the energy grade at the point of connection to the box culverts must not exceed the design energy grade at the inlet of the box culverts, as follows:

Northern Avenue	-	EL.	1084.87
Olive Avenue	-	EL.	1104.34
Peoria Avenue	-	EL.	1116.31

8. (a) Insofar as permitted by law, the CITY shall save and hold harmless the STATE, or any of its departments, agencies, officers or employees, from all cost and damages to any person, property or legal entity, which is caused by the negligent act or omission of the CITY. The above costs or damages shall include in the event of an action, court costs, expenses of litigation and reasonable attorney fees.

(b) Insofar as permitted by law, the STATE shall save and hold harmless the CITY, or any of its departments, agencies, officers or employees, from all cost and damages to any person, property or legal entity, which is caused by the negligent act or omission of the STATE. The above costs or damages shall include in the event of an action, court costs, expenses of litigation and reasonable attorney fees.

9. The paragraphs of this Agreement concerning construction shall remain in effect until the construction and the payments for the construction have been completed.

10. The paragraph of this Agreement concerning the maintenance of the tie-ins by the CITY shall remain in effect in perpetuity.

11. This contractual Agreement shall be filed with the Secretary of State and shall be effective upon such filing.

12. Attachments B and C are authenticated copies of the resolutions of the STATE and CITY authorizing said parties to enter into this Agreement.

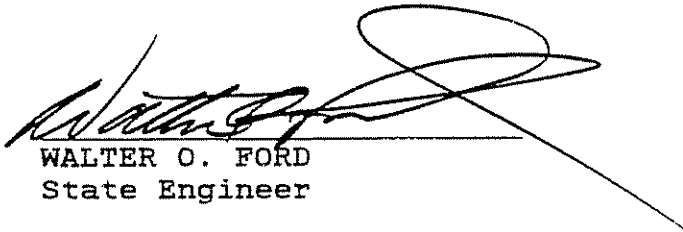
Attachments D and E are the written determination of the attorneys for said parties that this Intergovernmental Agreement is in proper form and within the powers and authority granted to said parties under the laws of the STATE of Arizona.

13. All parties hereby are put on notice that this Agreement is subject to cancellation by the Governor pursuant to A.R.S. Subsection 38-511, the provisions of which are incorporated herein.

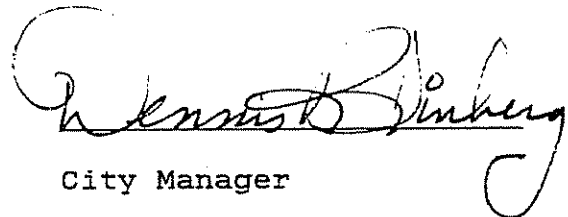
14. The parties agree to use arbitration after exhausting applicable administrative reviews, to resolve disputes arising out of this Agreement where the sole relief sought is monetary damages of \$100,000 or less, exclusive of interest and costs.

ARIZONA DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

CITY OF PEORIA

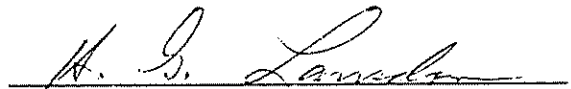


WALTER O. FORD  
State Engineer

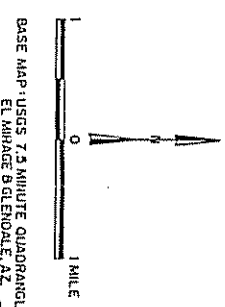


Kenneth Binkley  
City Manager

Recommended by:



H. G. LANSDON, P.E.  
Construction Liaison Engineer  
Urban Highway Section

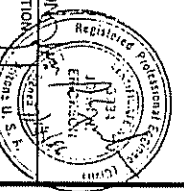
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Water Resources Associates, Inc.

PROJECT NO. 08400510	DATE 6/17/86
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GLENDALE-PEORIA  
MASTER PLAN DELINEATION  
NORTHERN AVE. TO CACTUS RD. SECTION  
DRAINAGE BASIN MAP  
AND RUNOFF SUMMARY  
100 YEAR FREQUENCY

FIGURE 2



ACKNOWLEDGMENT BY CITY

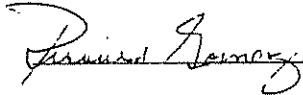
STATE OF ARIZONA

COUNTY OF MARICOPA

On this the 3rd day of August, 19 87  
before me, Richard Gomez, the undersigned Notary  
Public, personally appeared Dennis Tinberg, City Manager  
of Peoria, AZ

known to me (or satisfactorily proven) to be the person described in  
the foregoing instrument, and acknowledged that he executed the same  
in the capacity therein stated and for the purposed therein  
contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_

My Commission expires:

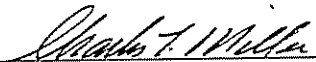
My Commission Expires March 7, 1988

PROJECT: AZM-600-0-501  
SECTION: Northern Avenue  
to Grand Avenue  
ATTACHMENT B

RESOLUTION

BE IT RESOLVED on this 19<sup>th</sup> day of August, 1987.  
that I Charles L. Miller, as Director, ARIZONA DEPARTMENT OF  
TRANSPORTATION, have determined that it is in the best interests  
of the State of Arizona that the DEPARTMENT OF TRANSPORTATION,  
acting by and through the Highways Division enter into an  
Intergovernmental Agreement with the city of Peoria for the  
purpose of design, construction and maintenance of tie - ins to  
the Outer Loop Highway box culverts at Northern Avenue, Olive  
Avenue and at Peoria Avenue which will be used in the future by  
the City of Peoria in the expansion of the City's storm water  
collection system.

THEREFORE, authorization is hereby given to draft said Agreement  
which, upon completion, shall be submitted for approval and  
execution by the State Engineer.

  
\_\_\_\_\_  
CHARLES L. MILLER, Director  
Arizona Department of Transportation

HGL/la

ATTACHMENT C

City's Resolution to  
be inserted here

NOTE

See next page for letter dated August 5, 1987 from City of Peoria explaining the substitution of a "Certificate of Recording Office" for the City's Resolution which has been approved by Attorney General's Office.

August 5, 1987

RECEIVED  
AUG 06 1987

URBAN HIGHWAY SECTION

Mr. H. G. Lansdon, P. E.  
Construction Liaison Engineer  
Urban Highway Section  
Arizona Department of Transportation  
206 South Seventeenth Avenue  
Phoenix, Arizona 85007

RE: Storm Drainage Disposal Agreement No. 100-87-RBM

Dear Mr. Lansdon:

Attached is the ADOT Original and City Copy of the Storm Drainage Disposal Agreement No. 100-87-RBM for the Northern-Grand Avenue section of the Outer Loop Highway.

Since the Agreement was not approved by resolution we also enclosed the Certificate of Recording Officer, which is the excerpt from the minutes.

If you have any questions, please do not hesitate to call the undersigned.

Sincerely,

*Eldon R. Johansen for*  
Eldon R. Johansen  
City Engineer

ERJ:dmf  
Enclosures

CITY OF PEORIA, ARIZONA

CERTIFICATE OF RECORDING OFFICER

I, Janice L. Graziano, the duly appointed, qualified and Acting City Clerk of Peoria, Arizona, do hereby certify that the following extract from the minutes of the July 28, 1987 Regular Meeting of the Mayor and Council of the City of Peoria, Maricopa County, Arizona, is a true and correct copy of the original minutes of such meeting on file and of record insofar as they relate to the matters set forth.

CONSENT AGENDA

Mayor Travers asked if any Councilmember or citizen present wished to have any item removed from the proposed Consent Agenda. Thereafter, upon motion by Councilman Palmer, seconded by Councilwoman Seaton, and upon mechanical vote the Consent Agenda Items were approved unanimously.

CC-1688      Outer Loop Storm Drain Tie-In

Authorized Storm Drainage Disposal Agreement with ADOT for construction, maintenance and financing of the storm drain tie-in to the Outer Loop Drain.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said City of Peoria this 5th day of August, 1987.

  
Janice L. Graziano, Acting City Clerk

(SEAL)

ACKNOWLEDGMENT BY STATE

STATE OF ARIZONA

COUNTY OF MARICOPA

ON THIS THE 19<sup>th</sup> day of August, 19 87.

before me, the undersigned Notary Public, personally appeared \_\_\_\_\_

W.O. Ford, State Engineer, Arizona  
Department of Transportation, known to me (or satisfactorily proven)  
to be the person whose name is subscribed to the within instrument  
and acknowledged that he executed the same for the purposes therein  
contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

*Janette Sutter*

NOTARY PUBLIC

My Commission expires:

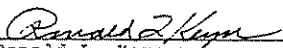
My Commission Expires Nov 19, 1988

ATTACHMENT "D"

The undersigned has reviewed this Agreement between the City of Peoria and the State of Arizona, and has determined that is in proper form and is within the powers and authority granted to the City of Peoria, Arizona.

No opinion is expressed as to the authority of the remaining party.

DATED this 22nd day of July, 1987.

  
\_\_\_\_\_  
Ronald L. Keyser  
City Attorney  
City of Peoria



Attorney General  
1275 WEST WASHINGTON  
Phoenix, Arizona 85007  
Robert E. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KR 87-1985, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 13<sup>th</sup> day of August, 1987.

ROBERT E. CORBIN  
Attorney General

Albert Morison  
Assistant Attorney General  
Transportation Division